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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/782,941	02/23/2004	Daisuke Imanari	HOS-69	7665

35777 7590 03/13/2006

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EXAMINER	
KUHNS, ALLAN R	
ART UNIT	PAPER NUMBER
1732	

DATE MAILED: 03/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/782,941	IMANARI ET AL.	
	Examiner	Art Unit	
	Allan Kuhns	1732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *10 January 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-14* is/are pending in the application.

4a) Of the above claim(s) *4-14* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-3* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *070604*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

1.Applicant's election with traverse of Group I, claims 1-3 in the reply filed on January 10, 2006 is acknowledged. The traversal is on the ground(s) that the groups do not recite mutually exclusive limitations and that the claims of Group II expressly recite that the foam-molded article of Group II is made by the manufacturing method of Group I. This is not found persuasive because when evaluating product-by-process claims, as in Group II in this application, it is the structure imputed from the steps practiced which is evaluated in light of prior art, not the steps practiced to produce that structure. Note MPEP 2113. It is noted by the examiner that applicants have also presented arguments concerning restrictions between process claims and apparatus claims and restrictions between different species. These arguments appear not to be relevant since the restriction in this application is between a process and a product.

The requirement is still deemed proper and is therefore made FINAL.

2.Claims 4-14 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on January 10, 2006.

3.The abstract of the disclosure is objected to because it is too long and should be written in a single paragraph. Correction is required. See MPEP § 608.01(b).

4.Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The

abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

5.The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6.Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 98/53986 (Andersson et al.) in view of Anderson et al. (6,376,059). Andersson et al. disclose or suggest the basic claimed method for manufacturing a foam-molded article by molding between molds a parison or hose with a foam layer formed by extruding an expandable molten resin composition, obtained by melt-kneading a polyethylene resin and a foaming agent, to an area of low pressure from a die, wherein the resin comprises 40-85 wt% polyethylene with a density that is more than 0.94 g/cm^3 and not more than 0.97 g/cm^3 and 15-60% of another polyethylene with a density of 0.89 g/cm^3 to 0.94 g/cm^3 (note page 3, line 27 to page 4, line 9). It is submitted that the polyethylene resin blend of Andersson et al. inherently possesses a melt flow rate and melt tension within the ranges of claim 1. Since Andersson et al. specify the use of a foaming agent of an amount which is 0.5-2.5 wt% of the total weight of the extrusion mixture (page 4, lines 16-17), it is also submitted that the resultant foam density falls within the range of claim 1. Andersson et al. teach the use of a chemical blowing agent

which releases carbon dioxide upon decomposition, but also in a method of extruding a polyethylene which may be used in a blow molding process (column 2, line 37), Anderson et al. suggest the use of a physical foaming agent instead, for example at column 2, lines 60-67. It would have been obvious to one of ordinary skill in the art to substitute the use of a physical foaming agent, as taught by Anderson et al., into the process of Andersson et al. since Anderson et al. teach that the physical blowing agents are often less expensive and more efficient and reliable.

Anderson et al. teach the use of carbon dioxide, as in claim 2, at column 7, line 7, and Andersson et al. teach the forming of a multilayer structure having the foam layer sandwiched between layers, as in claim 3, at page 5, lines 7-11.

7.Any inquiry concerning this communication or earlier communications from the examiner should be directed to Allan Kuhns whose telephone number is (571) 272-1202. The examiner can normally be reached on Monday to Thursday from 7:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Colaianni, can be reached on (571) 272-1196. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Allan R. Kuhns

ALLAN R. KUHNS
PRIMARY EXAMINER AU 1732

3-7-06